

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	CASE NO. 4:22 CR 61
)	
Petitioner,)	JUDGE DONALD C. NUGENT
)	
v.)	
)	
ANDREI CASH,)	<u>MEMORANDUM OPINION</u>
)	<u>AND ORDER</u>
Respondent.)	

This matter comes before the Court upon Defendant, Andrei Cash's Motion for Sentence Modification Pursuant to 18 U.S.C. § 3582(c)(2). The Government has not responded. Section 3582(c)(2) permits, but does not require, the Court to modify a defendant's sentence if the defendant's sentencing range has been subsequently lowered by the Sentencing Commission pursuant to 28 U.S.C. §994(o), if a reduction is consistent with applicable policy statements and if it is supported after consideration of the §3553(a) sentencing factors.

Mr. Cash argues that the Sentencing Commission will be making a retroactive amendment to subsection (d) of §4A1.1, eliminating criminal history points attributed to defendants who commit crimes while on probation or otherwise under supervision. Mr. Cash did, in fact, gain two points in the calculation of his criminal history category under §4A1.1(d) because he committed the offense at issue in this case while he was under a criminal justice sentence for Trafficking in Cocaine in Case Number 2019CR00520. However, even if there was (or will be) a retroactive reduction to the Sentencing Guidelines that would eliminate the two

point adjustment for offenses committed while already under sentence, it would not affect Mr. Cash's sentence in this case. Mr. Cash has a total of twelve points in his criminal history score, and would have had ten points if the two point adjustment at issue were eliminated. According to the sentencing table in USSG Chapter 5, Part A, a criminal history category of V encompasses a criminal history score of 10-12. Therefore, even without the two point adjustment, he would still be a criminal history category V, and his sentencing range would remain unchanged. For these reasons, Mr. Cash's Motion for Sentence Modification is DENIED.


DONALD C. NUGENT
United States District Judge

DATED: September 6, 2023